

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

3   UNITED STATES OF AMERICA            )   CASE NO. 1:19CR639  
4    )     
5                   vs.                    )   Greensboro, North Carolina  
6   WALTER CLIFTON WOOD                 )   January 19, 2021  
7    )   2:03 p.m.  
8                   \_\_\_\_\_

9                   TRANSCRIPT OF THE **SENTENCING HEARING**  
10                  BEFORE THE HONORABLE CATHERINE C. EAGLES  
11                  UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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25                   Proceedings recorded by mechanical stenotype reporter.  
                    Transcript produced by computer-aided transcription.

## P R O C E E D I N G S

(The Defendant was present.)

**THE COURT:** Okay. Good afternoon.

**MR. COALTER:** Good afternoon.

**MR. IVERSON:** Your Honor, Eric Iverson for the United States. This matter is the United States verse Walter Clifton Wood, 1:19CR639. This matter is on for sentencing. Mr. Wood is before the Court with his attorney, Mr. Coalter. For Probation is Ms. Patton.

And at the appropriate time, Your Honor, there was one item I wanted to address that was in the position paper I filed.

**THE COURT:** Okay.

**MR. IVERSON:** A correction.

**THE COURT:** A correction. Thank you.

Good afternoon, Mr. Coalter.

**MR. COALTER:** Good afternoon, Your Honor.

**THE COURT:** Let's see. You've seen the presentence report and reviewed it with Mr. Wood?

**MR. COALTER:** I have, Your Honor.

**THE COURT:** And you're ready to proceed?

**MR. COALTER:** We are.

**THE COURT:** And it looks like you've withdrawn his objections to the presentence report?

**MR. COALTER:** In looking at it, Mr. Wellman had

1 withdrawn all but two, and I have gone back, and we've  
2 withdrawn the remainder.

3 **THE COURT:** All right. Thank you.

4 Mr. Wood, if you would stand up.

5 Good afternoon.

6 **THE DEFENDANT:** Good afternoon.

7 **THE COURT:** Have you had time to look through your  
8 presentence report and talk to Mr. Coalter and get ready for  
9 today?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** Do you have any questions before we get  
12 started?

13 **THE DEFENDANT:** No, Your Honor.

14 **THE COURT:** You can be seated.

15 So I did read everything. There were a bunch of  
16 sentencing memos and addendums and such, but I believe I got  
17 everything that was on the docket. I did read the report by  
18 Dr. Hersh, so I have seen that as well.

19 And, Mr. Iverson, your correction, does it have to do  
20 with the guidelines or anything in the presentence report?

21 **MR. IVERSON:** It doesn't affect the guidelines. It's  
22 just something -- it's more of a clarification that I feel like  
23 I should make for the record.

24 **THE COURT:** Okay. Well, why don't you -- I am going  
25 to adopt the presentence report, but why don't you tell me what

1 it is first just so that's on the table.

2 **MR. IVERSON:** Absolutely.

3 **THE COURT:** And which memo it is, preferably by  
4 docket number.

5 **MR. IVERSON:** Thirty. And it's actually referenced  
6 as 30-1. It's page 9. So attached to the sentencing  
7 memorandum as 30-1 was an example of communication between  
8 Mr. Wood and a minor living in the Midwest area of the country.  
9 And on page 9 of 30-1, I referenced a close-up of a female  
10 individual touching her genitalia, i.e., masturbation. I  
11 referenced that in two places. I was doing that from my notes.

12 Going back and looking, I think that's what it is,  
13 but it's an extremely blurry image. I have shown Mr. Coalter  
14 this image. So I just -- I felt it best to state that on the  
15 record, that it is very blurry. I think it is hard to tell  
16 exactly what that is. However, there are numerous files in  
17 this case that do depict clearly the victim's genitalia. It's  
18 just I picked a poor example. That's all.

19 **THE COURT:** Thank you for correcting that.

20 And you have no objections to the presentence report?

21 **MR. COALTER:** No, Your Honor.

22 **THE COURT:** I'll adopt the presentence report as is.  
23 And as to all matters in the report, I will adopt those as  
24 findings of fact.

25 The total offense level is 42. The criminal history

1 category is V. That makes the guideline range 240 months,  
2 which is the statutory maximum. The supervised release  
3 suggestion is 5 years to life. And the fine range is 50,000 to  
4 \$250,000.

5 Did I accurately state the applicable guidelines?

6 **MR. COALTER:** Yes, Your Honor.

7 **THE COURT:** Mr. Iverson?

8 **MR. IVERSON:** Yes, Your Honor.

9 **THE COURT:** I will take that into account on an  
10 advisory basis. I am, of course, bound by the 20-year  
11 statutory maximum, and I think supervised release must be at  
12 least 5 years by statute.

13 So Probation has suggested a downward variance.

14 Does anybody have evidence?

15 **MR. COALTER:** No evidence, Your Honor.

16 **MR. IVERSON:** Not from the Government, Your Honor.

17 **THE COURT:** Okay. You know, I do often vary in this  
18 kind of case, but I usually don't have a prior record like  
19 Mr. Wood's. And I think the guideline without the statutory  
20 maximum would have been 360 months to life.

21 No, that's not right. I'm looking at the wrong  
22 place. Let me look again. Yes, it is right. I was still  
23 looking at the wrong place, but now I'm looking at the right  
24 place. Paragraph 103, guideline range of 360 to life except  
25 for the statutory maximum.

1 I will say his criminal history category appears to  
2 be somewhat overstated. He appears to be unable to comply with  
3 the laws about having tags and a driver's license, and that  
4 appears to be responsible for a huge amount of his points. So  
5 those are some of the things that I noticed.

6 He has a pending charge. Has that been resolved?

7 **THE PROBATION OFFICER:** No, Your Honor, it has not.

8 **THE COURT:** That's paragraph -- let's see. Criminal  
9 history, paragraph 75. Okay.

10 Go ahead then, Mr. Coalter.

11 **MR. COALTER:** Yes, Your Honor. Just since you've  
12 mentioned criminal history, and I will get into it more in a  
13 little bit, I believe his last driving conviction was in  
14 roughly 2009. So at some point he -- the message got through  
15 to him with regard to driving.

16 **THE COURT:** Oh, you're right. Thank you for pointing  
17 that out. I see that now.

18 **MR. COALTER:** But going back through Dr. Herish's  
19 report, the court-ordered psychosexual evaluation, Dr. Herish on  
20 page 20 kind of sums up Mr. Wood's situation, indicates he's 44  
21 years old, was living in Mount Airy. And he's got -- Dr. Herish  
22 notes he's got a history of significant psychological and  
23 behavioral difficulties. His psychological functioning has  
24 been impacted by mental illness, trauma, and maladaptive  
25 personality characteristics. He was placed in an out-of-home

1 therapeutic setting from age 9 to 19, and he received inpatient  
2 psychiatric treatment multiple times as a child and  
3 adolescence. He was reported included in the Willie M. class  
4 as a child, indicated that he displayed severe mental or  
5 emotional difficulties as well as violent or assaultive  
6 behavior. He stated that he was diagnosed with bipolar  
7 disorder and schizophrenia, and the medical records reviewed by  
8 the United States Probation Office confirmed those diagnoses.

9           As an adult, he's received disability payments for  
10 mental illness, although he was employed up until 2015 when his  
11 medical problems prevented him from working.

12           He received outpatient mental health treatment as an  
13 adult, although he was not receiving any treatment during the  
14 period of his arrest. He stated that he was -- Mr. Wood was  
15 seeking mental health treatment prior to his arrest.

16           Dr. Hersh diagnosed Mr. Wood with post-traumatic  
17 stress disorder. On page 21, Dr. Hersh indicates Mr. Wood has  
18 experienced considerable trauma during his lifetime. He was  
19 sexually abused on multiple occasions by multiple perpetrators  
20 between ages 6 and 9. He was apparently exposed to violence  
21 between his parents on at least one -- and at least once as a  
22 child. He's experienced physical trauma, including head injury  
23 at age 14 or 15, which led to a coma lasting two and a half  
24 months. As an adult, he experienced the violent deaths of two  
25 close friends.

1 Dr. Hersh also diagnosed Mr. Wood with other  
2 specified personality disorder. This is a pervasive pattern of  
3 instability, of interpersonal relationships, self-images and  
4 effects, and marked impulsivity that begins by early adulthood  
5 and is present in a variety of contexts. Mr. Wood displays  
6 affective instability and a marked reactivity in mood. He is  
7 likely to be impulsive and reckless and have difficulty  
8 controlling his anger.

9 Despite having been diagnosed with schizophrenia,  
10 bipolar disorder, and depression for many years, over a 35-year  
11 period, Dr. Hersh currently rules out those diagnoses in favor  
12 of post-traumatic stress disorder.

13 Dr. Hersh also ruled out the diagnosis of pedophilic  
14 disorder. On page 24, Dr. Hersh concluded that Mr. Wood  
15 displays some protective factors that may help reduce his risk  
16 of sexual recidivism. Mr. Wood has a history of sexual  
17 relationships with adult women, which indicate he can meet his  
18 sexual needs in appropriate ways.

19 Although he has a history of alcohol and drug use, he  
20 reports that he has dramatically decreased his substance use in  
21 recent years.

22 He expresses some understanding of why his offensive  
23 conduct was wrong, and he's open to receiving professional  
24 treatment.

25 Mr. Wood's mother passed away in 2007 due to chronic



1 obstructive pulmonary disease, or COPD. His father, Bill Wood,  
2 is 74 years old and also suffers from COPD as well as diabetes  
3 and severe bronchitis. Mr. Wood, his father, Bill Wood, was  
4 recently -- had recently had a stroke caused by atrial  
5 fibrillation and has been in the hospital for several weeks and  
6 rehab after that, although it looks like he's going to be  
7 released.

8           Walter Wood has one sister, Billy Jo Johnson, who is  
9 in the courtroom, Your Honor, who supports Mr. Wood.  
10 Ms. Johnson states that Mr. Wood is a really good person.  
11 She's quoted as saying, "He'd go without in order to help  
12 others."

13           Mr. Wood's uncle John Reece is also here to support  
14 him.

15           Mr. Wood's mental health issues stem from a traumatic  
16 childhood. Before age 9, he was --

17           **THE COURT:** Can I ask you -- just a second. I  
18 somehow overlooked in Dr. Hersh's report this coma when he was  
19 14 or 15. That's not in the presentence report. If it is, I  
20 overlooked it there too.

21           **MR. COALTER:** It's referenced --

22           **THE COURT:** I see it in Dr. Hersh's report now that  
23 you pointed it out to me.

24           **MR. COALTER:** Right.

25           **THE COURT:** I see it on page -- I'm looking at the

1 ECF page numbers. It looks like page 22.

2 **MR. COALTER:** Right.

3 **THE COURT:** Was that -- I just didn't see -- maybe he  
4 discussed that elsewhere or explained that. I just missed -- I  
5 just didn't see that earlier.

6 **MR. COALTER:** I saw it in Dr. Hersh's report, Your  
7 Honor. I cannot recall whether it ended up in the presentence  
8 report or not.

9 **THE COURT:** I didn't see it, but that doesn't mean it  
10 isn't there. I'm usually pretty good about catching that kind  
11 of thing. Let's see if Dr. Hersh talks about it in the --

12 **MR. COALTER:** Right.

13 **THE COURT:** -- earlier.

14 **MR. COALTER:** There is a reference to the scar that  
15 was associated with it, I believe.

16 **THE COURT:** Oh, here it is. It's on page -- this is  
17 information from Mr. Wood on page 12 -- again, I'm looking at  
18 the ECF page -- 1991, injured riding his bicycle and in a coma  
19 for two and a half months, and then hit on the head with a pipe  
20 in 2007.

21 **MR. COALTER:** Yes, Your Honor.

22 **THE COURT:** Okay. So go ahead. I'm sorry. I just  
23 wanted to kind of get a grip on that because a coma for two and  
24 a half months is kind of unusual.

25 **MR. COALTER:** I mean, his physical situation is so

1 large and extensive that there is a lot to report.

2 But dealing with his traumatic childhood, when he was  
3 between 6 and 8 years of age, his cousin James Linville abused  
4 him both orally and anally. Another cousin Benji did the same  
5 thing. When he was eight, his aunt's husband, Robert Wray  
6 sexually, abused both Mr. Wood and his sister. And this was  
7 confirmed by Ms. Johnson.

8 This affected Mr. Wood's mental health between ages 9  
9 and 19. He lived in four groups homes and was committed to  
10 five psychiatric hospitals. Additionally, he received  
11 outpatient treatment. During this period, he was diagnosed  
12 with schizophrenia, bipolar disorder, and manic depression, and  
13 he was classified as Willie M.

14 His current health situation is extremely perilous.  
15 As Mr. Wellman put it in his sentencing memo, he's a very sick  
16 man. He's 6'1" and 370 pounds. According to the presentence  
17 report, Dr. Hersh's report, the Defendant, and sister, he  
18 suffers from morbid obesity, congestive heart failure, chronic  
19 obstructive pulmonary disease which is what his mother had and  
20 his father has, atrial fibrillation, hyperlipidemia, which is a  
21 heart ailment, I believe, he's had a brain hematoma, Type 2  
22 diabetes, acute hypoxemic respiratory failure, and as you  
23 expect, high blood pressure, high cholesterol, bronchial  
24 asthma, obstructive sleep apnea, and a number of other less  
25 serious conditions. He currently indicates he takes 16

1 medications.

2 Other than the coma as a child, his most serious  
3 hospitalization was May 7, 2018, when he had a heart attack;  
4 and according to Ms. Johnson, his sister, and the Defendant, at  
5 some point his heart flatlined before he was revived.

6 When he was arrested and in state custody on these  
7 same charges, he was transferred to Central Prison because the  
8 local county jails could not manage his medical conditions.

9 With regard to the instant offense, Mr. Wood  
10 recognizes the seriousness and wrongfulness of his conduct. He  
11 explained that to Dr. Hersh. On the day of his arrest, he  
12 voluntarily admitted to the offense and the offense conduct and  
13 that his actions were wrong. He's accepted responsibility for  
14 his criminal conduct.

15 In the instant case, there was no in-person meeting  
16 despite attempts by the undercover law enforcement to set up  
17 such a meeting. Mr. Wood made no attempt to meet the purported  
18 victim. He was satisfied with the virtual relationship, and  
19 this is consistent with his relationship with Minor 1, which  
20 was a relationship that extended over apparently five years,  
21 and it was entirely virtual.

22 His criminal history is noted in the presentence  
23 report. The majority of the Defendant's convictions are  
24 traffic-related offenses. He has no prior felony convictions.  
25 His longest sentence was in 2007, and that sentence was

1 apparently 150 days at the expiration of 120. I'm not sure if  
2 that was modified any bit on the violation, but at least the  
3 original sentence was set up to be nine months. And that  
4 obviously pales in comparison to what he is facing now.

5           While we are not disputing any of the relevant  
6 conduct, there are some things that the Court should consider  
7 when assigning weight to certain relevant conduct. Regarding  
8 T.M. in paragraph 40, that ultimately -- the case ultimately  
9 went to superior court. A full investigation was done, and he  
10 was convicted of contributing to the delinquency of a minor.  
11 That's a fairly broad offense and is not necessarily sexually  
12 related. For that to have happened, given the allegations, the  
13 State had some problems with its case.

14           T.M. indicates that she and Mr. Wood were in a dating  
15 relationship at the time. Mr. Wood brought T.M. to meet his  
16 family, and she told them that she was 17 years old, going on  
17 18. Now, while that was not necessarily a legal defense, I  
18 would argue that it goes to the weight that should be given.  
19 Later, and I'm not sure how many years later, T.M. ultimately  
20 stabbed Mr. Wood at some point.

21           With regard to Minor No. 1, that was a five-year  
22 relationship. There's allegations in the presentence report  
23 that she knew him as James Allen. However, Mr. Iverson and I  
24 have reviewed the Snapchat video, and there's at least one in  
25 there where she's calling him Cliff. And these are screenshots

1 of the Snapchat, and she calls him Cliff. So she did know his  
2 name. She indicates that Mr. Wood did request nude images, but  
3 did not request any particular acts.

4           In reviewing the Government's position paper, the  
5 Government places some emphasis on the Static-99R with regard  
6 to future dangerousness. First, I would point out that  
7 Dr. Hersh has ruled out a pedophilic disorder for Mr. Wood.  
8 The Static-99 is a fairly blunt instrument. It's not  
9 individualized. It's a test -- it contains several simple  
10 yes-no questions to predict future recidivism. In reading  
11 Dr. Hersh's report as a whole, he didn't seem to emphasize it.  
12 Of the questions that apply to Mr. Wood, about four of them are  
13 questionable. One was he has not lived long term with an  
14 intimate partner. However, Dr. Hersh's report indicates that  
15 Mr. Wood had a long-term relationship with girlfriend Crystal,  
16 and they occasionally cohabitated.

17           Another issue was he was previously convicted of a  
18 nonsexual violent offense. That was a 1994 assault on a female  
19 offense when Mr. Wood was 18 years old, living in a group home.  
20 On page 6 of Dr. Hersh's report, Mr. Wood denies actually  
21 committing the offense and indicated basically he was asked to  
22 make allegations against someone else and refused to do so, and  
23 that led to the charges against him.

24           The next question that had some issues with it was he  
25 was previously convicted of a sexual offense. Well, he was

1 convicted of attributing to the delinquency of a minor. That  
2 could be as innocuous as assisting T.M. from going to school --  
3 picking her up at school. And he has a high number of  
4 sentencing dates, and half of those convictions are traffic  
5 offenses.

6           There are three items such as he's been convicted of  
7 noncontact sex offense, committed a sex offense against an  
8 unrelated victim, and committed a sex offense against a  
9 stranger that are all related to the instant offense and  
10 obviously apply. But the four I have gone over, I would argue  
11 there's some question to those.

12           The presentence report recommends a variance to 180  
13 months. The presentence report notes kind of the following  
14 factors in support of that:

15           There's a two-level enhancement in the guideline  
16 range for use of a computer and five-level enhancement for  
17 600-plus images, and those regularly appear in these cases and  
18 don't really differentiate Mr. Wood from the run-of-the-mill  
19 case.

20           The Defendant agreed to a psychosexual evaluation.  
21 The mental health diagnosis for Mr. Wood, that he was a Willie  
22 M. child, it's noted that this classification may correlate  
23 between mental health and criminal record.

24           His health issues, quite frankly, Mr. Wood has a  
25 shorter -- based on his mental health issues, will have a

1 shorter life expectancy than most people, including most  
2 inmates. He has a -- as such, he has a much greater chance of  
3 dying in prison than the typical defendant.

4           The majority of his offenses are traffic related, and  
5 he's been able to control his substance abuse for approximately  
6 ten years.

7           I mentioned earlier that his father, Bill Wood, just  
8 came out of the hospital after suffering a stroke. Mr. Wood's  
9 chief concern is that his father may die before he's released.  
10 His father is in poor health, and that -- you know, I think  
11 even when he was arrested when the -- at some point -- it may  
12 be in Dr. Hersh's report -- he expressed concern that once he  
13 gets out of prison, that there will be nobody there, nobody  
14 left. And I think that's his biggest concern.

15           We would request a downward variance to between 120  
16 and 180 months, a physical examination and treatment for  
17 Mr. Wood, mental health evaluation, probably substance abuse  
18 treatment. While he's got a fairly good handle on his illegal  
19 substance abuse use, currently he takes a lot of medications.  
20 And the Court has seen many people come before it where  
21 substance abuse problems start with prescription medication.

22           Ask that he be housed as close to his family in Mount  
23 Airy as possible, and at the appropriate time we'd ask the  
24 Court to dismiss the remaining counts from the indictment.

25           **THE COURT:** All right. Thank you, Mr. Coalter.



1 For the Government?

2 **MR. IVERSON:** Yes, Your Honor.

3 The Government recommends a guideline sentence in  
4 this matter. Your Honor, the Defendant engaged in a sexually  
5 charged conversation with an individual he believed to be a  
6 minor. This is not -- this is clearly not what one would call  
7 mine-run child exploitation or child pornography case. What  
8 Mr. Wood did is he disseminated child pornography on two  
9 occasions to an individual he believed to be a minor. The  
10 Government would argue that he did that in an attempt to groom  
11 the minor to engage in essentially online sexual interaction  
12 with Mr. Wood, online I will emphasize.

13 This conduct is not Mr. Wood's only such conduct.  
14 The communications found on his phone, further investigation  
15 revealed that he had been engaged in a similar relationship  
16 with an actual minor child for an extended period of time, at  
17 least 18 months.

18 I don't know if it was as long as five years, as the  
19 minor reported, but we have forensic evidence revealing that it  
20 went on for over a year where they were regularly engaged in  
21 online communication, including that of a sexual nature and the  
22 minor sending Mr. Wood pictures of herself.

23 Given these factors, the Government believes that a  
24 guideline sentence is appropriate.

25 **THE COURT:** All right. Mr. Wood, if you would stand.

1           If there is anything you want to tell me before I  
2 make the final decision in your case, I'm glad to hear from  
3 you. You do not have to speak if there's nothing you want to  
4 add; but if there is anything you want to tell me, this is your  
5 chance. You just need to stand close to the microphone since  
6 we're all wearing these masks because of the pandemic.

7           Go ahead.

8           **THE DEFENDANT:** Well, Your Honor, I'd just like to  
9 say that I know what I did was wrong, and I just apologize for  
10 the people that I hurt, my family, their families, and I  
11 apologize for having to waste the Court's time and everything  
12 for this.

13          **THE COURT:** So I talked to you a few months back when  
14 I gave you a new lawyer, and you seem calmer today.

15          **THE DEFENDANT:** Yeah.

16          **THE COURT:** Are you doing better?

17          **THE DEFENDANT:** A little bit.

18          **THE COURT:** Okay. Thank you. I appreciate that.  
19 You can be seated.

20          Let me look back through everything.

21          (Pause in the proceedings.)

22          **THE COURT:** Mr. Coalter, did you have anything to say  
23 about the suggested conditions of supervised release or the  
24 standard conditions? I took a look. They seemed all  
25 appropriate, but if you thought any of them were -- let me look

1 back at them actually, because we just had that decision out of  
2 the Fourth Circuit. I want to be sure.

3 **MR. COALTER:** No, Your Honor. I can see the  
4 relevance of the financial conditions, and I can see why they  
5 were added, but that would be the only thing I would ask the  
6 Court maybe to consider.

7 **THE COURT:** He is going to have the restitution;  
8 right? You all have agreed, and there's a stipulation on  
9 restitution?

10 **MR. COALTER:** There is, Your Honor, and it's in the  
11 amount of \$5,000.

12 **THE COURT:** So Special Condition 9 is the one about  
13 not possessing a computer without prior approval, and that  
14 basically covers a smartphone. Under the circumstances of the  
15 offense, that would appear to be appropriate. Of course, I  
16 don't know what the world is going to be like when he gets out.  
17 You know, he can certainly -- you might not be able to walk  
18 around in the world without a computer when he gets out.

19 **MR. COALTER:** Yes, Your Honor.

20 **THE COURT:** You know, if that's the case, that would  
21 definitely be a change of circumstance. He could seek some  
22 relief from that condition.

23 Let's see. It does say -- you may not even be able  
24 to do stuff on paper when he gets out, but that's a little  
25 uncertain at this point. I would just note that condition. It

1 seems appropriate, in view of the nature and circumstances of  
2 the offense, and it actually seems like a very good idea. But  
3 before he gets out, if the world has changed even more, as it  
4 probably will -- we just don't know how -- you know, that one  
5 may bear revisiting in light of whatever the circumstances are  
6 then, so -- which I am not -- I don't have a crystal ball. So  
7 I don't know what it's going to be like then, but it's -- maybe  
8 there will be some mechanism that will work better than just  
9 the prohibition. Of course, it does authorize approval by the  
10 probation officer, you know, depending on his situation.

11 **MR. COALTER:** Yes, Your Honor.

12 **THE COURT:** Okay. Thank you.

13 Does the Government have any comments about the  
14 standard or suggested conditions of supervised release?

15 **MR. IVERSON:** No, Your Honor.

16 **THE COURT:** The other thing about the suggested  
17 conditions I think I might modify, the only thing, would be  
18 No. 13 where the probation officer is suggesting that he submit  
19 to a polygraph test. I have no problem with that if it's part  
20 of sex offender treatment, which I know it often is. In any  
21 other context, I'm not so sure I really feel all that  
22 comfortable with it.

23 Did the Government want to be heard in support of  
24 that condition?

25 **MR. IVERSON:** No, Your Honor.

1           **THE COURT:** Any problem with that more narrow special  
2 condition?

3           **MR. COALTER:** No, Your Honor. I know it's going to  
4 be part of sex offender treatment.

5           **THE COURT:** Yeah, it usually is certainly, and I have  
6 no problem with that. That seems entirely appropriate based on  
7 the 20-some-odd -- 25-some-odd years I have been looking at  
8 these kinds of thing.

9           Mr. Wood, if you would stand.

10           The Court has reviewed the presentence report and  
11 takes the guidelines into account on an advisory basis. I've  
12 reviewed all of the memos submitted by counsel and the  
13 exhibits. I note Mr. Iverson's qualifications of some of his  
14 exhibits, and I have read Dr. Hersh's report. I appeared to  
15 have overlooked the coma; but when I went back, it was clearly  
16 there. I had not highlighted it, but I am so glad that you  
17 pointed that out, Mr. Coalter. I did read the whole thing  
18 earlier.

19           You know, ordinarily, I do think the guidelines  
20 overstate a bit because of the way they count for a computer  
21 and number of images, but in his case I don't think that is so  
22 because the guideline recommendation has already come down by  
23 virtue of the statutory maximum.

24           As I look at his situation, with two previous  
25 sexually exploitive relationships and the nature and

1 circumstances of this offense, you know, clearly the protection  
2 of the public is, it seems to me, the primary factor to be  
3 taken into account here. I appreciate all of his health  
4 problems and all of his mental health problems, but, you know,  
5 he engaged in this offense just a couple of months after he had  
6 his heart attack, and so bad health doesn't seem to really  
7 restrain him. And I'm just -- you know, his mental health  
8 issues seem to be part and parcel of the reasons, you know,  
9 kind of underlying the criminal conduct here. They don't  
10 appear to mitigate, I guess I would say, in terms of reducing  
11 the risk of recidivism or protecting the public. They appear  
12 to increase the risk of recidivism.

13           Certainly I hope he can get some treatment. He does  
14 appear to have developed some insights into his situation. And  
15 as Dr. Herish points out, the older he is, the lower the risk.  
16 That was in his report at page 25. So at least getting him to  
17 age 60 certainly seems to be a good thing in terms of reducing  
18 his risk of recidivism.

19           So in order protect the public because he is a repeat  
20 offender, he does have a bad record, even though most of it  
21 seems to have stopped, as Mr. Coalter pointed out recently, and  
22 the conduct continued, despite his serious health issues, I  
23 think a sentence at the guideline range is appropriate.

24           I have looked at the -- as I say, he's open to  
25 treatment. He has some understanding; he's reduced his

1 substance abuse; and he does recognize the conduct was wrong.  
2 I am not persuaded that those factors should result in a  
3 below-guideline sentence. They just don't outweigh the very  
4 serious risk of recidivism here. And the need to protect the  
5 public is, in my evaluation, paramount.

6 So 240 months in the custody of the Bureau of  
7 Prisons.

8 He will need to pay the special assessment, which --  
9 what is that in his case? It's just \$100. No. What about  
10 this 5,000-dollar JVTA assessment?

11 **MR. IVERSON:** I believe the conduct predates the  
12 enactment of that.

13 **THE COURT:** Okay. So that doesn't apply. So it's  
14 just the 100-dollar special assessment; right?

15 **MR. IVERSON:** That's correct. And even if that did  
16 apply, he's indigent, so it wouldn't apply.

17 **THE COURT:** And then he's got restitution, which the  
18 parties have handed up a stipulation, \$5,000 which the clerk  
19 shall pay pursuant to the stipulation.

20 **THE PROBATION OFFICER:** Your Honor?

21 **THE COURT:** Yes.

22 **THE PROBATION OFFICER:** I would say that the JVTA  
23 would have applied because of the conduct that went through;  
24 but my recommendation was not to recommend it because he was  
25 indigent. However, the Court would need to make that finding.

1           **THE COURT:** I see. All right. So it may or may not  
2 apply; but if it does apply, he's clearly indigent.

3           **MR. COALTER:** Yes, Your Honor.

4           **THE COURT:** So I will not impose that special  
5 assessment.

6           I will not impose a fine based on inability to pay.

7           And I will recommend to the Bureau of Prisons  
8 intensive substance abuse treatment, mental health treatment,  
9 and a medical evaluation for multiple chronic health problems.  
10 I'll ask the clerk to be sure to put that in the judgment so  
11 they see it. That's obviously a serious need here.

12           And subject to those needs, that he be housed as  
13 close as possible to his family in Mount Airy.

14           I'll require him to comply with the mandatory and  
15 standard conditions of supervised release. Let's see. I will  
16 place him on supervised release for 15 years. That actually  
17 seems a little long. He's going to be 62 or -3 when he gets  
18 out probably. So I suppose -- I don't know. I never know -- I  
19 can't predict how long anybody is going to live. Let me leave  
20 it at 15 years. He's got this record and a long period of  
21 supervision is appropriate.

22           So mandatory and standard conditions, I will -- I  
23 will adopt in full the suggested conditions by the probation  
24 officer for the reasons stated in the presentence report  
25 without objection, except I will modify the one about the



1 polygraph testing to limit that to polygraph testing in  
2 connection with mental health or sex offender treatment;  
3 otherwise, not.

4 Dismiss Counts One, Three, and Four; is that right?

5 **MR. COALTER:** Yes, Your Honor.

6 **THE COURT:** Okay. Those are dismissed.

7 And what have I forgotten, or what else do I need to  
8 do for the Government?

9 **MR. IVERSON:** If you will announce for the record  
10 that the judgment will incorporate the forfeiture order which  
11 was issued in May of this year.

12 **THE COURT:** Oh, yes, thank you for reminding me.

13 **MR. IVERSON:** And then Ms. Patton is absolutely right  
14 about the JVTa. I was thinking of the AVAA. I apologize. I'm  
15 usually pretty good at keeping those straight, but not today.

16 **THE COURT:** Thank you for correcting that and telling  
17 her she was right.

18 I will adopt the forfeiture proceedings; but in any  
19 event, I am going to waive those provisions since he doesn't  
20 have any money to pay them.

21 Anything else you would ask for, Mr. Coalter?

22 **MR. COALTER:** No, Your Honor.

23 **THE COURT:** Yes?

24 **THE PROBATION OFFICER:** I just want to make sure, for  
25 the Bureau of Prisons -- and restitution also I wanted to make

1 sure we cleared that up. For the BOP, I understood you  
2 mentioned mental health, substance abuse and medical, close to  
3 home. Did you mention sex offender treatment?

4 **THE COURT:** No, but I should. Thank you.

5 Mental health treatment and sex offender treatment.

6 **THE PROBATION OFFICER:** And then if we can mention --  
7 I think there is a stipulation for the restitution.

8 **THE COURT:** Yes. Stipulation of \$5,000. And I will  
9 waive interest on that just for simplicity sake. He will need  
10 to pay that -- if he doesn't get it paid off while he's in  
11 custody, he will need to pay it on supervised release.

12 Did you have that in there? Yes. \$100 a month.

13 How much is his disability?

14 **MR. COALTER:** \$750. I ask the Court to consider \$50  
15 a month.

16 **THE COURT:** Yeah, I'll reduce that to \$50 a month.  
17 That's paragraph No. 2 in the recommended conditions. I will  
18 reduce that to \$50 a month to begin 60 days after his  
19 supervised release begins.

20 **THE PROBATION OFFICER:** Sorry, Your Honor. Just to  
21 confirm, would it be to the victim noted in paragraph 112? I  
22 just wanted to confirm that that is who it would go to.

23 **THE COURT:** Sarah depicted in Marineland I; is that  
24 the person in paragraph 12?

25 **THE PROBATION OFFICER:** It is in paragraph 112.

1           **THE COURT:** 112, oh, sorry. No wonder I wasn't  
2 seeing it.

3           **THE PROBATION OFFICER:** And that's what's noted in  
4 the stipulation?

5           **THE COURT:** Yes, that's what's noted in the  
6 stipulation.

7           **THE PROBATION OFFICER:** Thank you.

8           **THE COURT:** Yes, that's right.

9           Anything else I have forgotten or need to address?

10          Did I say his appeal rights?

11          **MR. COALTER:** There's an appeals waiver in here. I  
12 will explain to him the exceptions. I already have, but I will  
13 go over it with him.

14          **THE COURT:** Thank you for reminding me of that. If  
15 he does think there is a reason to appeal, he has to do that in  
16 writing within 14 days of the entry of the Court's judgment.

17          **MR. COALTER:** Yes, Your Honor.

18          **THE COURT:** Anything else, Mr. Iverson?

19          **MR. IVERSON:** No, Your Honor.

20          **THE COURT:** No?

21          I appreciate his sister and uncle being here. This  
22 kind of offense is really hard on families. I know it's hard  
23 to be here even in normal times, and in a pandemic, it's even  
24 worse. I'm sure Mr. Wood greatly appreciates it, and I, too,  
25 want to thank you for being here.

1 Court is adjourned.

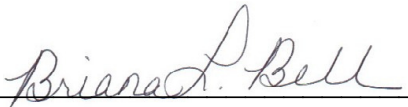
2 (END OF PROCEEDINGS AT 2:50 P.M.)

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1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF NORTH CAROLINA  
3 CERTIFICATE OF REPORTER  
4  
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6 I, Briana L. Bell, Official United States Court  
7 Reporter, certify that the foregoing transcript is a true and  
8 correct transcript of the proceedings in the above-entitled  
9 matter prepared to the best of my ability.

10  
11 Dated this 18th day of August 2021.  
12

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14   
15 Briana L. Bell, RPR  
16 Official Court Reporter  
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